



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/765,287	09/12/1997	CAMILLE LOCHT	960-25	5876

23117 7590 05/04/2004

NIXON & VANDERHYE, PC  
1100 N GLEBE ROAD  
8TH FLOOR  
ARLINGTON, VA 22201-4714

EXAMINER

SHAHNAN SHAH, KHATOL S

ART UNIT PAPER NUMBER

1645

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

08/765,287

**Applicant(s)**

LOCHT ET AL.

**Examiner**

Khatol S Shahnan-Shah

**Art Unit**

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1- 15, 18-22, 27-30 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) 36 and 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 6, 10- 15, 18-22, 27-30 34, 35, 37 39-42 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 4, 7, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 4/30/04.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 1645

***DETAILED ACTION***

***Applicants' Amendments***

1. Acknowledgement is made of Applicants' amendments filed 1/23/2004. Claims 1-15, 18-22, 27-30, 34, 35 and 40 have been amended.

***Status of the Claims***

2. Claims 1-15, 18-22, 27-30 and 34-42 are pending. Claims 36 and 38 were withdrawn from consideration. Claims 1-15, 18-22, 27-30, 34, 35, 37 and 39-42 are under consideration.

***Prior Citations of Title 35 Sections***

3. The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior office action.

***Prior Citations of References***

4. The references cited or used as prior art in support of one or more rejections in the instant office action have been previously cited and made of record. No form PTO-892 has been submitted with this office action.

***Rejection (s) Withdrawn***

5. Rejections of claims 1-15, 18-22, 27-30, 34, 35, 37 and 39 under 35 U.S.C. 103 (a) made in paragraphs 6 and 7 of the office action mailed 9/23/2003 have been withdrawn in view of applicants' amendments.
6. Rejections of claims 40-41 and 42 under 35 U.S.C. 102 (e) made in paragraphs 8 and 10 of the office action mailed 9/23/2003 have been withdrawn in view of applicants' amendments.
7. Rejections of claims 1 and 34 under 35 U.S.C. 112 first paragraph made in paragraph 9 of the office action mailed 9/23/2003 has been withdrawn in view of applicants' amendments.

***New Objections***

***Priority Statement***

8. Complete priority statement is missing from specification:

A statement reading " This application claims is a 371 of PCT/FR95/00512, filed on 19 April 1995 which claims priority to French application number 94/04661 filed 4/19/1994" should be entered following the title of the invention or as the first sentence of the specification.

Appropriate corrections are required.

***Abstract***

9. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b).

An abstract on a separate sheet is required.

***Drawings***

10. This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings. In unusual circumstances, the formal drawings from the abandoned parent application may be transferred by the grant of a petition under 37 CFR 1.182.

***Claims***

11. Claim 4 is objected to because of the following informalities:

Amended claim 4 recites " The recombinant DNA according to Claim 3". There is a 4 printed immediately after the number 3. It is not clear that this a typographical error or applicants refer to claim 34 not claim 3. Appropriate correction is required.

Art Unit: 1645

12. Claims 8 and 9 are referring to the nucleotide positions 907, 6292 and 2841. It is not clear what sequences the applicants are referring to when reciting said positions. The sequence listing and the CRF submitted in response to sequence compliance in this application only contains short DNA sequences which does not cover those nucleotide positions. Appropriate corrections are required.

13. Applicants have not canceled the withdrawn claims 36 and 38.

#### *Interview Summary*

14. Applicants representative Mary Wilson was called on 4/19/04 to discuss the above objections. The attorney was not in the office and the attorneys' associate advised the examiner to contact Ms Wilson when she returns on 4/22/04. The examiner was able to reach Ms Wilson finally on 4/26/04 and discussed the above issues with Ms Wilson. Ms. Wilson told the examiner she will contact the applicants and will get back with the examiner. On 4/30/04 Ms. Wilson called the examiner and asked for a written response about the above mentioned objections.

#### *Conclusion*

15. Claims 1-3, 5, 6, 10- 15, 18-22, 27-30 34, 35, 37 39-42 are allowable.

Claims 4, 7, 8, and 9 are objected to.

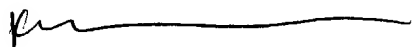
Claims 36 and 38 are withdrawn from consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnian-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

Art Unit: 1645

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

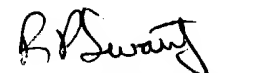


Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

Art Unit 1645

April 30, 2004



RODNEY P SWARTZ, PH.D  
PRIMARY EXAMINER